

1 **BOARD BILL NO. 114 INTRODUCED BY ALDERWOMAN HANRAHAN**

2 An ordinance pertaining to massage therapists and massage facilities; containing
3 definitions; requirements of the massage therapist license; requirements of the massage
4 facility business license; no transferring of licenses; advertising; inspections; in-office
5 massage; suspension and/or revocation of licenses; therapeutic massage schools, renewal
6 of licenses; persons under the age of eighteen; and containing an emergency clause.

7 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

8 **SECTION ONE.** Definitions. For the purpose of this chapter, the following words and
9 phrases shall have the meanings respectively ascribed to them by this section:

10 A. “Massage therapy” shall mean a health care profession which involves the
11 treatment of the body's tonus system through the scientific or skillful touching, rubbing,
12 pressing or other movements of the soft tissues of the body with the hands, forearms,
13 elbows, or feet, or with the aid of mechanical apparatus, for relaxation, therapeutic,
14 remedial or health maintenance purposes to enhance the mental and physical well-being
15 of the client, but does not include the prescription of medication, spinal or joint
16 manipulation, the diagnosis of illness or disease, or any service or procedure for which a
17 license to practice medicine, chiropractic, physical therapy, or podiatry is required by
18 law, or to those occupations defined in chapter 329, RSMo.

19 B. “Massage Business or Facility” shall mean an establishment where any person
20 performs massage or permits massage therapy to be performed for compensation. The
21 operator of a massage business or facility must obtain a massage facility business license
22 pursuant to Section Three.

C. “Massage Therapist” shall mean a person who has completed all requirements of this chapter for a massage therapist business license in order to practice massage within the City. Upon receipt of a massage therapist business license from the license collector of the City, a massage therapist may perform massage for compensation, but only at a licensed massage facility.

D. “Patron” shall mean any person who receives massage subject to the provisions of this ordinance under circumstances wherein it is reasonably expected that the patron will pay money or give any other consideration therefore.

E. “Sexual or genital areas” shall mean the genitals, pubic area, anus or perineum of any person, and the vulva or breasts of a female.

SECTION TWO. Massage Therapist Business License.

It shall be unlawful for any person to perform massage for compensation within the City without first obtaining a massage therapist business license, pursuant to this ordinance. A complete application shall be submitted to the Board of Public Service.

A. License application. An applicant for a massage therapist business license must furnish the Board of Public Service with a valid photo identification issued by an agency of either the State of Missouri or the United States of America, and an original or certified copy of the massage therapy certificate/license issued to the applicant by the Missouri Department of Economic Development, Division of Professional Registration, Missouri State Board of Therapeutic Massage, and the full license fee established by Section Three.

B. Application review. The Board of Public Service shall obtain confirmation from the Missouri Department of Economic Development, Division of Professional Registration,

Missouri State Board of Therapeutic Massage that the certificate/License presented by the applicant is not under suspension or revocation, and remains in good standing.

C. Display of license/limitations on off-premise massage. The massage therapist business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the massage facility where the massage is performed.

D. Exemptions. Practitioners who are exempt from the provisions of the Missouri Massage Therapy licensing law, Secs. 324.240, et seq. RSMo., shall not be required to obtain a massage therapist business license under the provisions of this ordinance.

SECTION THREE Massage Facility Business License required.

A. It shall be unlawful for any person to operate or maintain a massage facility in the City without first obtaining a massage facility business license pursuant to this ordinance.

A complete application shall be submitted to the Board of Public Service. The massage facility business license shall be in addition to any other business license, including any massage therapist business license, required the owner or operator of the massage facility.

B. License. An applicant for a massage facility business license must furnish the Board of Public Service with the original massage business license issued to the applicant by the Missouri Department of Economic Development, Division of Professional Registration, Missouri State Board of Therapeutic Massage and a fee of one hundred dollars (\$100.00) for each massage facility.

C. Application review. The Board of Public Service shall obtain confirmation from the Missouri Department of Economic Development, Division of Professional Registration, Missouri State Board of Therapeutic Massage that the massage business license presented by the applicant is not under suspension or revocation, and remains in good standing.

Approval by the Board of Public Service of a massage facility business license shall also be contingent on the following:

1. Location of facility. The massage facility shall comply with the City's Zoning Code.

2. Location in hotel or motel. The massage facility may be located in a hotel or motel only in a space specifically designated and dedicated for that purpose by responsible and identifiable hotel or motel management. The space so designated and dedicated shall be used solely for massage services and for no other purpose at any time.

3. Inspection by the Department of Health and regulations. No massage facility business license shall be approved by the Board of Public Service unless the Director of the City's Department of Health Department or his/her designee certifies to the Board of Public Service that the massage facility complies with all applicable health and safety laws, and any regulations as promulgated by the Director of the Department of Health.

D. The massage facility business license shall be displayed at all times by the licensee openly and conspicuously on the premises of the massage facility where the massage is performed.

E. Responsibility of license holder. The holder of a massage facility business license may hire or contract with massage therapists holding valid massage therapist business licenses from the City to perform massage at the facility for compensation. Massage facility business licensees are at all times responsible for any act or conduct in violation of this chapter of any massage therapist on the massage facility premises.

Nothing contained in this section shall be construed to eliminate other requirements of statute, regulation or ordinance concerning the maintenance of such premises, nor preclude authorized inspection thereof.

SECTION FOUR No transfer of license.

A. Massage facility licenses and massage therapist business licenses are not transferable and such authority as a license confers shall be conferred only on the location or person identified therein.

B. Fees paid and licenses obtained pursuant to this ordinance shall be in addition to and not in lieu of any other fees or licenses required to be paid or obtained pursuant to this ordinance or any other ordinances of this City.

SECTION FIVE Operating regulations.

Operation of a massage facility shall be subject to the following regulations:

1. Hours. The facility shall be closed and operations shall cease between the hours of 12:00 midnight and 6:00 a.m. each day.

2. Separation of sexes. It shall be unlawful for patrons of opposite sex to receive massage in the same room at the same time.

3. Danger to safety, health. No massage therapy shall be provided which in the opinion of the Health Department would impair the safety or health of any person and after such notice in writing to the licensee from such Health Department official.

4. Alcoholic beverages. No intoxicating liquor or non-intoxicating beer, nor the consumption thereof, shall be permitted on any premises licensed pursuant to this ordinance.

1 5. Conduct on premises. All persons holding a massage facility business license shall at
2 all times be responsible for the conduct of business on the licensed premises, and for any
3 act or conduct of any massage therapist utilizing the facility which constitutes a violation
4 of the provisions in this chapter. Any violation of city, state or federal laws committed on
5 the licensed premises by any such holder of a massage facility business license, holder of
6 a message therapist business license, or employee of the facility that affects the eligibility
7 or suitability of such person to hold a license, may be grounds for suspension or
8 revocation of the business license.

9 6. Sanitation of premises. All portions of a licensed facility, including appliances, shall
10 be kept clean and operated in a sanitary condition.

11 7. Sanitation of massage therapists and employees. All massage therapists shall be
12 clean and wear clean clothes. Provisions for a separate massage therapist/employee
13 dressing room for each sex must be available on the premises with individual lockers for
14 each massage therapist and employee. Doors to such dressing rooms shall open inward.

15 8. Dress of massage therapists and employees. At all times all massage therapists and
16 employees must be fully and modestly dressed in opaque attire that does not expose to
17 view any sexual or genital areas.

18 9. Dress of patrons. The sexual and genital areas of a patron must be covered by towels,
19 cloths or undergarments when the patron is in the presence of a massage therapist or
20 employee. Any contact with a patron's sexual or genital areas is strictly prohibited.

21 10. Laundry. All sheets and towels provided patrons in massage facilities shall be clean
22 and laundered after each use and stored in a sanitary manner.

11. Cleaning premises. Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the facility is in operation. Bathtubs shall be thoroughly cleaned after each use.

SECTION SIX Advertising.

No massage therapist or massage facility operator licensed pursuant to this ordinance shall place, publish or distribute or cause to be placed, published or distributed any advertising matter pertaining to massage that would reasonably suggest to prospective patrons that any service is available other than massage as defined in and regulated by this division; or that massage therapists or employees are dressed in any manner other than required by this ordinance.

SECTION SEVEN Inspections, immediate right of entry.

The St. Louis Police Department and the Department of Health officials may from time to time inspect a licensed massage facility to determine compliance with any provisions of this ordinance.

It shall be unlawful for any person holding a massage facility business license, a massage therapist business license or an employee of such licensee to refuse such inspection officer immediate access to the premises or to hinder such officer in any manner; such refusal or hindrance on the part of any license holder or employee shall be grounds for the immediate revocation or suspension of any relevant massage therapist or massage facility business license.

SECTION EIGHT. Suspension/revocation and promulgation of rules.

A. Whenever a majority of the persons, if any, owning property, and a majority of persons, if any, occupying premises or conducting any business on the main surface floor

1 of premises within a prescribed petition circle drawn by a radius of three hundred feet
2 plus one-half of the width of the front of the arcade from the center of the premises
3 projected to the street, shall sign and thereafter file a written petition before the Board of
4 Public Service demanding the revocation of the license which has been issued in
5 accordance with this Chapter, the license shall be revoked and be held null and void if a
6 majority of the Board of Public Service finds that the petition is in the form prescribed in
7 this section.

8 B. In addition to the revocation by neighborhood petition, a majority of the Board of
9 Public Service may suspend any or all of a licensee's licenses for a period of not more
10 than thirty days or any portion thereof, or may revoke any or all of a licensee's licenses
11 issued in accordance with Chapter whenever it is found that the licensee has obtained any
12 license through misrepresentation or fraud or that the licensee has disregarded or violated
13 any of the regulations or laws pertaining to massage therapy. The licensee shall be
14 notified in writing of the charges or infractions. These shall be mailed to the licensee at
15 the address of any of his licensed premises or at the last known residence of the licensee.
16 A public hearing shall be held before the Board of Public Service at a specified time. At
17 the hearing, evidence under oath shall be heard concerning the charges or infractions and
18 the licensee or his attorney may present evidence in answer to defense thereto. Evidence
19 of infractions or violations other than those specified in writing to the licensee may also
20 be presented at the hearing, provided, however, that the licensee shall be given reasonable
21 additional time, if he or she so requests, to prepare his answer or defense to such
22 additional infractions or violations. The Board of Public Service shall render a decision
23 within fourteen days after completion of the formal hearing and shall mail a copy of its

1 decision to the licensee. Appeals from the decision of the Board of Public Service may
2 be taken by the licensee as provided by law. Any person whose license has been revoked
3 shall not again be allowed to obtain a license issued by this ordinance for one year
4 thereafter.

5 C. A massage therapist whose massage therapist business license is suspended or
6 revoked shall immediately surrender to the Board of Public Service the permit associated
7 with the license.

8 D. The Board of Public Service is authorized to adopt all necessary forms and to enact,
9 promulgate and enforce all rules and regulations necessary for the reasonable
10 interpretation and enforcement of this chapter.

11 **SECTION NINE** Therapeutic massage schools.

12 A. A school offering massage training must first obtain a Certificate to Operate as a
13 therapeutic massage school from the Missouri Department of Higher Education. Any
14 student of such school may perform massage as part of the curriculum training, provided
15 that:

- 16 1. The student does not represent himself or herself as a licensed massage
17 therapist;
- 18 2. Neither the student nor an instructor receives compensation for the massage;
19 and
- 20 3. Any massage a student performs is personally supervised by a qualified
21 school instructor.

22 B. Any such school shall prominently display a Missouri Department of Higher
23 Education Certificate to Operate as such.

1 C. Therapeutic massage schools shall comply with all zoning regulations.

2 **SECTION TEN.** Renewal of licenses.

3 A. Massage facility and massage therapist business licenses shall be issued annually.

4 The first license shall be effective upon approval, and expire one year from date of
5 issuance.

6 B. Renewal applications must be received by the Board of Public Service no later than
7 thirty (30) days prior to expiration. Applications to renew a massage therapist business or
8 massage facility business license shall satisfy the requirements of an original application
9 and, in the case of an application to renew a massage therapist business license, be
10 accompanied by confirmation from the Missouri Department of Economic Development,
11 Division of Professional Registration, Missouri State Board of Therapeutic Massage that
12 the certificate/License presented by the applicant is not under suspension or revocation,
13 and remains in good standing.

14 C. If any renewal application contains information that, in the Board of Public Service's
15 opinion, does not warrant renewal or if other information known to the Board of Public
16 Service indicates that renewal is not warranted, the Board of Public Service shall notify
17 the applicant in writing, mailed by regular mail to the applicant at the address on the
18 renewal application, that the license renewal application is denied. In that case applicant
19 may contact the Board of Public Service that applicant desires a public hearing before the
20 Board of Public Service. So notified, the Board of Public Service shall schedule the
21 hearing and the Board of Public Service shall decide the matter.

22 **SECTION ELEVEN.** Persons under age 18.

- 1 A. No person shall permit any person under the age of eighteen (18) years to come or
- 2 remain on the premises of a massage facility as a massage therapist or employee of a
- 3 massage therapist or massage facility.
- 4 B. A person under the age of eighteen (18) years may be a patron of a massage therapist
- 5 only if, while at all times as a patron, the person possesses written, signed consent of a
- 6 custodial parent or legal guardian.